

CAMPBELL CH FLOOR AMENDMENT

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2371

(Reference to printed bill)

Page 1, between lines 1 and 2, insert:

"Section 1. Section 32-2181, Arizona Revised Statutes, is amended to read:

32-2181. Notice to commissioner of intention to subdivide lands; unlawful acting in concert; exceptions; deed restrictions; definition

A. Before offering subdivided lands for sale or lease, the subdivider shall notify the commissioner in writing of the subdivider's intention. The notice shall contain:

1. The name and address of the owner. If the holder of any ownership interest in the land is other than an individual, such as a corporation, partnership or trust, a statement naming the type of legal entity and listing the interest and the extent of any interest of each principal in the entity. For the purposes of this section, "principal" means any person or entity having a ten per cent or more financial interest or, if the legal entity is a trust, each beneficiary of the trust holding a ten per cent or more beneficial interest.

2. The name and address of the subdivider.

3. The legal description and area of the land.

4. A true statement of the condition of the title to the land, including all encumbrances on the land, and a statement of the provisions agreed to by the holder of any blanket encumbrance enabling a purchaser to acquire title to a lot or parcel free of the lien of the blanket encumbrance on completion of all payments and performance of all of the terms and provisions required to be made or performed by the purchaser under the real estate sales contract by which the purchaser has acquired the lot or parcel. The subdivider shall file copies of documents acceptable to the department containing these provisions with the commissioner before the sale of any subdivision lot or parcel subject to a blanket encumbrance.

1 5. The terms and conditions on which it is intended to dispose of the
2 land, together with copies of any real estate sales contract, conveyance,
3 lease, assignment or other instrument intended to be used, and any other
4 information the owner or the owner's agent or subdivider desires to present.

5 6. A map of the subdivision that has been filed in the office of the
6 county recorder in the county in which the subdivision is located.

7 7. A brief but comprehensive statement describing the land on and the
8 locality in which the subdivision is located.

9 8. A statement of the provisions that have been made for permanent
10 access and provisions, if any, for health department approved sewage and
11 solid waste collection and disposal and public utilities in the proposed
12 subdivision, including water, electricity, gas and telephone facilities.

13 9. A statement as to the location of the nearest public common and
14 high schools available for the attendance of school age pupils residing on
15 the subdivision property.

16 10. A statement of the use or uses for which the proposed subdivision
17 will be offered.

18 11. A statement of the provisions, if any, limiting the use or
19 occupancy of the parcels in the subdivision, together with copies of any
20 restrictive covenants affecting all or part of the subdivision.

21 12. The name and business address of the principal broker selling or
22 leasing, within this state, lots or parcels in the subdivision.

23 13. A true statement of the approximate amount of indebtedness that is
24 a lien on the subdivision or any part of the subdivision and that was
25 incurred to pay for the construction of any on-site or off-site improvement,
26 or any community or recreational facility.

27 14. A true statement or reasonable estimate, if applicable, of the
28 amount of any indebtedness that has been or is proposed to be incurred by an
29 existing or proposed special district, entity, taxing area or assessment
30 district, within the boundaries of which the subdivision, or any part of the
31 subdivision, is located, and that is to pay for the construction or
32 installation of any improvement or to furnish community or recreational

1 facilities to the subdivision, and which amounts are to be obtained by ad
2 valorem tax or assessment, or by a special assessment or tax upon the
3 subdivision or any part of the subdivision.

4 15. A true statement as to the approximate amount of annual taxes,
5 special assessments or fees to be paid by the buyer for the proposed annual
6 maintenance of common facilities in the subdivision.

7 16. A statement of the provisions for easements for permanent access
8 for irrigation water where applicable.

9 17. A true statement of assurances for the completion of off-site
10 improvements, such as roads, utilities, community or recreational facilities
11 and other improvements to be included in the offering or represented as being
12 in the offering, and approval of the offering by the political subdivision
13 with authority. This statement shall include a trust agreement or any other
14 evidence of assurances for delivery of the improvements and a statement of
15 the provisions, if any, for the continued maintenance of the improvements.

16 18. A true statement of the nature of any improvements to be installed
17 by the subdivider, the estimated schedule for completion and the estimated
18 costs related to the improvements that will be borne by purchasers of lots in
19 the subdivision.

20 19. A true statement of the availability of sewage disposal facilities
21 and other public utilities, including water, electricity, gas and telephone
22 facilities in the subdivision, the estimated schedule for their installation,
23 and the estimated costs related to the facilities and utilities that will be
24 borne by purchasers of lots in the subdivision.

25 20. A true statement as to whether all or any portion of the
26 subdivision is located in an open range or area in which livestock may roam
27 at large under the laws of this state and what provisions, if any, have been
28 made for the fencing of the subdivision to preclude livestock from roaming
29 within the subdivided lands.

30 21. If the subdivider is a subsidiary corporation, a true statement
31 identifying the parent corporation and any of the following in which the

1 parent or any of its subsidiaries is or has been involved within the past
2 five years:

3 (a) Any subdivision in this state.

4 (b) Any subdivision, wherever located, for which registration is
5 required pursuant to the federal interstate land sales full disclosure act.

6 (c) Any subdivision, wherever located, for which registration would
7 have been required pursuant to the federal interstate land sales full
8 disclosure act but for the exemption for subdivisions whose lots are all
9 twenty acres or more in size.

10 22. A true statement identifying all other subdivisions, designated in
11 paragraph 21 of this subsection, in which any of the following is or, within
12 the last five years, has been directly or indirectly involved:

13 (a) The holder of any ownership interest in the land.

14 (b) The subdivider.

15 (c) Any principal or officer in the holder or subdivider.

16 23. A true statement as to whether all or any portion of the
17 subdivision is located in territory in the vicinity of a military airport or
18 ancillary military facility as defined in section 28-8461, in territory in
19 the vicinity of a public airport as defined in section 28-8486, on or after
20 July 1, 2001, in a high noise or accident potential zone as defined in
21 section 28-8461 or on or after July 1 of the year in which the subdivision
22 becomes located in a high noise or accident potential zone. The statement
23 required pursuant to this paragraph does not require the amendment or
24 refiling of any notice filed before July 1, 2001 or before July 1 of the year
25 in which the subdivision becomes located in a high noise or accident
26 potential zone.

27 24. If the subdivision is a conversion from multifamily rental to
28 condominiums as defined in section 33-1202, a true statement as to the
29 following:

30 (a) That the property is a conversion from multifamily rental to
31 condominiums.

32 (b) The date original construction was completed.

1 25. Other information and documents and certifications as the
2 commissioner may reasonably require PROVIDED THAT THE SUBDIVIDER SHALL NOT BE
3 REQUIRED TO DISCLOSE ANY CRITICAL INFRASTRUCTURE INFORMATION AS DEFINED IN
4 SECTION 41-1801 OR ANY INFORMATION CONTAINED IN A REPORT ISSUED PURSUANT TO
5 SECTION 41-4273.

6 B. The commissioner, on application, may grant a subdivider of lots or
7 parcels within a subdivision for which a public report was previously issued
8 by the commissioner an exemption from all or part of the notification
9 requirements of subsection A of this section. The subdivider shall file a
10 statement with the commissioner indicating the change of ownership in the
11 lots or parcels together with any material changes occurring subsequent to
12 the original approval of the subdivision within which the lots or parcels are
13 located. The statement shall further refer to the original approval by the
14 commissioner.

15 C. If the subdivision is within an active management area, as defined
16 in section 45-402, the subdivider shall accompany the notice with a
17 certificate of assured water supply issued by the director of water resources
18 along with proof that all applicable fees have been paid pursuant to sections
19 48-3772 and 48-3774.01, unless the subdivider has obtained a written
20 commitment of water service for the subdivision from a city, town or private
21 water company designated as having an assured water supply by the director of
22 water resources pursuant to section 45-576 or is exempt from the requirement
23 pursuant to section 45-576. If the subdivider has submitted a certificate of
24 assured water supply to a city, town or county prior to approval of the plat
25 by the city, town or county and this has been noted on the face of the plat,
26 the submission constitutes compliance with this subsection if the subdivider
27 provides proof to the commissioner that all applicable fees have been paid
28 pursuant to sections 48-3772 and 48-3774.01.

29 D. It is unlawful for a person or group of persons acting in concert
30 to attempt to avoid this article by acting in concert to divide a parcel of
31 land or sell subdivision lots by using a series of owners or conveyances or
32 by any other method that ultimately results in the division of the lands into

1 a subdivision or the sale of subdivided land. The plan or offering is
2 subject to this article. Unlawful acting in concert pursuant to this
3 subsection with respect to the sale or lease of subdivision lots requires
4 proof that the real estate licensee or other licensed professional knew or
5 with the exercise of reasonable diligence should have known that property
6 which the licensee listed or for which the licensee acted in any capacity as
7 agent was subdivided land subject to this article.

8 E. A creation of six or more lots, parcels or fractional interests in
9 improved or unimproved land, lots or parcels of any size is subject to this
10 article except when:

11 1. Each of the lots, parcels or fractional interests represents, on a
12 partition basis, thirty-six acres or more in area of land located in this
13 state, including to the centerline of dedicated roads or easements, if any,
14 contiguous to the land in which the interests are held.

15 2. The lots, parcels or fractional interests are the result of a
16 foreclosure sale, the exercise by a trustee under a deed of trust of a power
17 of sale or the grant of a deed in lieu of foreclosure. This paragraph does
18 not allow circumvention of the requirements of this article.

19 3. The lots, parcels or fractional interests are created by a valid
20 order or decree of a court pursuant to and through compliance with title 12,
21 chapter 8, article 7 or by operation of law. This paragraph does not allow
22 circumvention of the requirements of this article.

23 4. The lots, parcels or fractional interests consist of interests in
24 any oil, gas or mineral lease, permit, claim or right therein and such
25 interests are regulated as securities by the United States or by this state.

26 5. The lots, parcels or fractional interests are registered as
27 securities under the laws of the United States or the laws of this state or
28 are exempt transactions under section 44-1844, 44-1845 or 44-1846.

29 6. The commissioner by special order exempts offerings or dispositions
30 of any lots, parcels or fractional interests from compliance with this
31 article on written petition and on a showing satisfactory to the commissioner

1 that compliance is not essential to the public interest or for the protection
2 of buyers.

3 F. In areas outside of active management areas established pursuant to
4 title 45, chapter 2, article 2:

5 1. If the subdivision is located in a county that has adopted the
6 provision authorized by section 11-806.01, subsection F, or in a city or town
7 that has enacted an ordinance pursuant to section 9-463.01, subsection O, the
8 subdivider shall accompany the notice with a report issued by the director of
9 water resources pursuant to section 45-108 stating that the subdivision has
10 an adequate water supply, unless one of the following applies:

11 (a) The subdivider submitted the report to a city, town or county
12 before approval of the plat by the city, town or county and this has been
13 noted on the face of the plat.

14 (b) The subdivider has obtained a written commitment of water service
15 for the subdivision from a city, town or private water company designated as
16 having an adequate water supply by the director of water resources pursuant
17 to section 45-108.

18 (c) The plat was approved pursuant to an exemption authorized by
19 section 9-463.01, subsection K, pursuant to an exemption authorized by
20 section 11-806.01, subsection G, paragraph 1, pursuant to an exemption
21 granted by the director of water resources under section 45-108.02 and the
22 exemption has not expired or pursuant to an exemption granted by the director
23 under section 45-108.03. If the plat was approved pursuant to an authorized
24 exemption, the state real estate commissioner shall require that all
25 promotional material and contracts for the sale of lots in the subdivision
26 adequately display the following:

27 (i) The director of water resources' report or the developer's brief
28 summary of the report as approved by the commissioner on the proposed water
29 supply for the subdivision.

30 (ii) A statement describing the exemption under which the subdivision
31 was approved, including the specific conditions of the exemption that were
32 met. If the plat was approved by the legislative body of a city or town

1 pursuant to an exemption authorized by section 9-463.01, subsection K or by
2 the board of supervisors of a county pursuant to an exemption authorized by
3 section 11-806.01, subsection G, paragraph 1, the subdivider shall record the
4 document required by section 33-406.

5 (d) The subdivision received final plat approval from the city, town
6 or county before the requirement for an adequate water supply became
7 effective in the city, town or county, and there have been no material
8 changes to the plat since the final plat approval. If changes were made to
9 the plat after the final plat approval, the director of water resources shall
10 determine whether the changes are material pursuant to the rules adopted by
11 the director to implement section 45-108. If this subdivision applies, the
12 state real estate commissioner shall require that all promotional materials
13 and contracts for the sale of lots in the subdivision adequately display the
14 director of water resources' report or the developer's brief summary of the
15 report as approved by the commissioner on the proposed water supply for the
16 subdivision.

17 2. If the subdivision is not located in a county that has adopted the
18 provision authorized by section 11-806.01, subsection F or in a city or town
19 that has enacted an ordinance pursuant to section 9-463.01, subsection O, and
20 if the director of water resources, pursuant to section 45-108, reports an
21 inadequate on-site supply of water to meet the needs projected by the
22 developer or if no water is available, the state real estate commissioner
23 shall require that all promotional material and contracts for the sale of
24 lots in subdivisions approved by the commissioner adequately display the
25 director of water resources' report or the developer's brief summary of the
26 report as approved by the commissioner on the proposed water supply for the
27 subdivision.

28 G. The commissioner may require the subdivider to supplement the
29 notice of intention to subdivide lands and may require the filing of periodic
30 reports to update the information contained in the original notice of
31 intention to subdivide lands.

1 H. The commissioner may authorize the subdivider to file as the notice
2 of intention to subdivide lands, in lieu of some or all of the requirements
3 of subsection A of this section, a copy of the statement of record filed with
4 respect to the subdivision pursuant to the federal interstate land sales full
5 disclosure act if the statement complies with the requirements of the act and
6 the regulations pertinent to the act.

7 I. Neither a real estate sales contract, conveyance, lease, assignment
8 or other instrument to transfer any interest in subdivided land nor any
9 covenant or restriction affecting real property shall contain any provision
10 limiting the right of any party to appear or testify in support of or
11 opposition to zoning changes, building permits or any other official acts
12 affecting real property before a governmental body or official considering
13 zoning changes, building permits or any other official acts affecting real
14 property, whether the property is located within or outside of the boundaries
15 of the subdivision. All contractual provisions that conflict with this
16 subsection are declared to be contrary to public policy. Nothing contained
17 in this subsection shall prohibit private restrictions on the use of any real
18 property.

19 J. Before offering subdivided lands for lease or sale, the subdivider
20 who makes any promises through any form of advertising media that the
21 subdivided lands will be exclusively a retirement community or one that is
22 limited to the residency of adults or senior citizens shall include the
23 promises in the deed restrictions affecting any interest in real property
24 within the subdivided lands."

25 Renumber to conform

26 Amend title to conform

CHAD CAMPBELL

HB2371-fl-campbell
3/10/08
12:53 PM
H:ENB